

UNITED STATES DISTRICT COURT
For the District of Massachusetts

C.A. No. 03-12502 RGS

HARTFORD FIRE INSURANCE
COMPANY,

Plaintiff,

VS.

EASTERN CONTRACTORS, INC.

Defendant/Third-Party
Plaintiff,

VS.

CITY OF LAWRENCE, CITY OF FALL
RIVER AND FREETOWN/LAKEVILLE
REGIONAL SCHOOL DISTRICT,

Third-Party Defendants.

**THIRD-PARTY DEFENDANT FREETOWN/LAKEVILLE REGIONAL SCHOOL
DISTRICT'S MOTION TO STAY LITIGATION AND COMPEL DEFENDANT/THIRD-
PARTY PLAINTIFF EASTERN CONTRACTORS, INC. TO ARBITRATE
PURSUANT TO MASS. GEN. L. C. 251, § 2**

The Third-Party Defendant Freetown/Lakeville Regional School District (the "District") hereby moves pursuant to Mass. Gen. L. c. 251, § 2 for an order staying the litigation brought against it by the Defendant/Third-Party Plaintiff Eastern Contractors, Inc. ("Eastern"), and directing Eastern to arbitrate this dispute before the American Arbitration Association. The written agreement between the District and Eastern requires that "any Claim between the District and Eastern, . . . shall be subject to arbitration," at the District's sole discretion. Massachusetts

General Laws Chapter 251, Section 1 states that a written agreement to submit a controversy to arbitration “shall be valid, enforceable and irrevocable.” Sections 2(a) and 2(d) of Chapter 251 provide that upon application to the court, if the court finds that an agreement to arbitrate exists, the court shall order the parties to proceed to arbitration and shall order the stay of the action or proceeding involving an issue subject to arbitration. Mass. Gen. L. c. 251, §§ 2(a) and 2(d). The District therefore is entitled to an order directing the District and Eastern to arbitrate this dispute, and staying Eastern’s action against the District.

In further support of this Motion, the District submits a memorandum of law and the Affidavits of James A. Marot and Corey E. Burnham-Howard with exhibits.

REQUEST FOR HEARING

The District hereby requests oral argument on this Motion.

Respectfully submitted

FREETOWN/LAKEVILLE REGIONAL
SCHOOL DISTRICT
By its attorneys,

/s/ Corey E. Burnham-Howard
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorney of record for each other party, or if no attorney has yet appeared for each other party, upon each other party, by mail and/or electronically on April 1, 2004.

By: /s/ Corey E. Burnham-Howard

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